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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,345	09/15/2003	Michael Adendorff	25148-11A	1574
34238 7590 04/01/2008				
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PARKER, BRANDI P				
ART UNIT		PAPER NUMBER		
4137				
MAIL DATE		DELIVERY MODE		
04/01/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/663,345

Applicant(s)

ADENDORFF ET AL.

Examiner

BRANDI P. PARKER

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/15/2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.

4a) Of the above claim(s) 2,5,6,10-13,17-19,21,23,26,28,31-32,36-39,41-44,46,48,51,53-54 is/are withdrawn from consideration.

- 5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,3,4,7-9,14-16,20,22,24,25,27,29,30,33-35,40,45,47,49,50 and 52 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 6/05/2006
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Acknowledgements

1. Examiner acknowledges Applicant's claim amendments received on October 25, 2007.
2. Claims 1, 3-4, 7-9, 14-16, 20, 22, 24-25, 27, 29-30, 33-35, 40, 45, 47, 49-50 and 52 are pending in this Office Action.
3. This Office Action is given Paper No. 20080303 for reference purposes only.

Priority

4. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Canada on November 11/26/2002. It is noted, however, that applicant has not filed a certified copy of the Canada 2,412,747 application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-4, 7-9, 15-16, and 24-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the

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subject matter which applicant regards as the invention. A single claim which claims both an apparatus and the method steps of using the apparatus is indefinite under 35 U.S.C. 112, second paragraph. *Ex parte Lyell*, 17 USPQ2d 1548 (Bd. Pat. App. & Inter. 1990). Claims 3-4, 7-9, and 15-16 are dependent upon claims 1 and claims 24-25 are dependent upon claim 20, which are directed towards a performance monitoring system. The aforementioned claims the performance monitoring system as well as a method of using the performance monitoring system which makes the claims ambiguous. Appropriate correction is required.

5. Claim 20 recites the limitation "including the scores" when loading the performance information. There is insufficient antecedent basis for this limitation and it is therefore rejected.
6. Claims 22 and 24-25 are rejected for being dependent upon rejected claim 20.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-4, 7-9, 14-16, 20, 22, 24-25, 27, 29-30, 33-35, 40, 45, 47, 49-50 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al (US 6668253) in view of Sands (WO 01/88769).

7. With respect to **claims 1, 20, 25, 27, 29, 45 and 52**, Thompson teaches a performance monitoring system comprising:

- a. a staging area for receiving data from one or more data sources (column/line 2/5-17);
- b. a KPI store for storing performance information relating to predefined Key Performance Indicators (KPIs) (column/line 7/20-23);
- c. a loader for transforming the received data into the performance information relating to the KPIs (column/line 2/10-20),
- d. an information presentation unit for presenting the performance information to a user (column/line 9/1-31).

Thompson does not teach calculating scores and loading the scores into the KPI store. However, Sands teaches

- e. calculating scores based on the received data and the performance information stored in the KPI store to indicate changes in the KPIs such that the scores indicate if associated KPIs are getting better or worse or unchanged and loading the performance information including the scores into the KPI store (page/line 3/28-4/23).

It would have been obvious to one having ordinary skill in the art to modify the disclosure in Thompson with Sands because Sands teaches a method for processing performance data which can be used with a performance monitoring system.

8. As to **claim 3**, Sands teaches the staging area receives an actual value for a KPI (page/line 4/5-6); the KPI store stores a history of the actual value for the KPI (page/line 1/12-17); the loader calculates a score for the KPI based on the actual value and the history to indicate if the KPI is getting better or worse or unchanged (page/line 8/16-30).
9. Regarding **claims 4 and 30**, Sands teaches the staging area receives a target value and an actual value for a KPI (page/line 1/12-16); the loader calculates a score for the KPI based on the actual value and the target value or a prorated target value to indicate if the KPI is good, bad or neutral compared to the target value (page/line 10/17-27), and calculates another score by comparing the calculated score and a score calculated and stored in the KPI store at a previous loading, so that the another score indicates if the KPI is getting better or worse or unchanged (Id).
10. With respect to **claims 7 and 33**, Thompson teaches the information presentation unit presents a higher level of the performance information in a form capable of breaking down into a lower lever (column/line 6/65-7/11).
11. As to **claims 8 and 34**, Thompson teaches the staging area provides to the loader data that has changed from a last loading (column/line 4/64-5/14).
12. Regarding **claims 9 and 35**, Thompson teaches the staging area contains value information for the KPIs and time information relating to one or more time periods to which the value information is applied where
 - f. the KPI store stores the value information in association with the time information in a relational cube having the time and indicator dimensions, actual

values, target values and score values for the KPIs, and/or business metadata as a network of content of the metadata (figure 23, column/line 32/39-49).

Thompson is modified by Sands to teach the loader with a function to determine which KPI is affected by a change in the value information (page/line 10/17-27). It would have been obvious to one having ordinary skill in the art to modify Thompson by Sands because the deviation is necessary for a complete model and mapping of the data.

13. With respect to **claim 14**, Thompson teaches the information presentation unit comprises: an application server for accessing and managing the performance information stored in the KPI store (column/line 34/65-35/9); and a front-end interface for allowing a user to monitor and analyze the performance information (column/line 35/21-27).

14. As to **claims 15 and 40**, Thompson teaches the front-end interface has a data guided monitoring function for receiving a user input and presenting relevant performance information in a selected order based on the user input, presenting the performance information of a selected KPI together with related KPIs which are in a cause and effect relation with the selected KPI. and/or presenting the performance, information of related KPIs in a diagram to navigate the user through the related KPIs (column/line 9/1-31).

15. Regarding **claims 16, 22, 24, 47, and 49-50**, Thompson teaches the data guided monitoring function presents the performance information for relevant KPI's sorted based on a selected type of scores, and/or presents the performance information for relevant KPI's filtered and sorted based on the scores of the KPI's (column/line 10/1-6).

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Scott et al (US 2002/0052862).

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDI P. PARKER whose telephone number is (571) 272-9796. The examiner can normally be reached on Mon-Thur. 8-4pm.

18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin L. Hewitt II can be reached on (571) 272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Calvin L Hewitt II/
Supervisory Patent Examiner, Art Unit 4137